

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No: 05-CR- 1849 (JH)

DANA JARVIS,

Defendant.

**DEFENDANT DANA JARVIS' MOTION TO SEAL
HIS MOTION TO DISQUALIFY HIS FORMER COUNSEL, ROBERT GORENCE, AS
COUNSEL FOR CO-DEFENDANT WILSON, FILED SIMULTANEOUSLY
HEREWITH**

Defendant, Dana Jarvis, through counsel of record Joe M. Romero, Jr. and Jody Neal-Post, hereby requests his Motion to Disqualify His Former Counsel, Robert Gorence, as Counsel for Co-Defendant Wilson be accepted for and filed under seal, with service to the Court, the United States and Mr. Wilson only. As grounds, Mr. Jarvis states as follows.

1. Defendant Jarvis' earlier Motion to Seal, Doc. 1118, was resolved by Order at Doc. 1138, which addressed only already filed motions and the sealing of the minutes of the November 20, 2007 hearings and Orders, but did not address prospective filings regarding the sensitive attorney-client issues in this case.

2. Motions to Disqualify always raise ethical issues of reputation, appearances of impropriety and maintenance of the public's confidence in the criminal justice system. *See e.g. Butler v. Biocore Med. Techs., Inc.*, 348 F.3d 1163, 1168 (10th Cir. 2003);(LEXIS search of "appearance of impropriety" and "Motion to Disqualify" in Tenth Circuit reveals 103 cases on November 29, 2007).

3. It is therefore most prudent for the Court to receive pleadings on Disqualification initially sealed, subject to the Court's determination post resolution of the appropriateness of unsealing.

4. The United States opposes sealing.

5. Mr. Wilson's counsel agrees the Chief Magistrate's order did not address prospective filings, and does *not* oppose sealing.

WHEREFORE, Mr. Jarvis respectfully requests this Court accept his Motion to Disqualify under seal and order the remaining filings related to this briefing sequence be filed under seal in the interests of maintenance of the public confidence in the propriety of these criminal proceedings.

Respectfully submitted:

Electronically filed 11/29/07
By: _____
Joe M. Romero, Jr.
Attorney for Defendant Jarvis
1905 Lomas NW
Albuquerque, NM 87104
(505) 843-9776

Electronically filed 11/29/07
By: _____
Jody Neal-Post
Attorney for Defendant Jarvis
317 Amherst SE
Albuquerque, NM 87106
(505) 268-7263

I hereby certify that a true and correct copy of the foregoing was served on opposing counsel, AUSAs James Braun and Stephen Kotz, on November 29, 2007.

Electronically filed 11/29/07

Joe M. Romero, Jr.